

ASSEMBLY BILL

No. 1938

Introduced by Assembly Member Hagman

February 19, 2014

An act to amend Section 340.3 of the Code of Civil Procedure, relating to actions for damages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1938, as introduced, Hagman. Actions for damages: felony offenses.

Existing law authorizes, except as provided, an action for damages against a defendant based upon the defendant's commission of a felony offense for which the defendant has been convicted to be commenced within 10 years of the date on which the defendant is discharged from parole if the conviction was for any of certain serious felonies, as defined, except as specified.

This bill would authorize, except as provided, an action for damages against a defendant who was found not guilty by reason of insanity, or who was declared a ward of the court, to be commenced within 10 years of a specified date. The bill would also make nonsubstantive changes and update a cross-reference in these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 340.3 of the Code of Civil Procedure is
2 amended to read:

1 340.3. (a) Unless a longer period is prescribed for a specific
2 action, in any action for damages against a defendant based upon
3 the defendant's commission of a felony offense for which the
4 defendant has been convicted, the time for commencement of the
5 action shall be within one year after judgment is pronounced.

6 (b) (1) Notwithstanding subdivision (a), an action for damages
7 against a defendant based upon the defendant's commission of a
8 felony offense for which the defendant has been convicted may
9 be commenced within 10 years of the date on which the defendant
10 is discharged from parole if the conviction was for any offense
11 specified in paragraph (1), except voluntary manslaughter, (2),
12 (3), (4), (5), (6), (7), (9), (16), (17), (20), (22), (25), (34), or (35)
13 of subdivision (c) of Section 1192.7 of the Penal Code.

14 (2) *Notwithstanding subdivision (a), an action for damages*
15 *against a defendant based upon the defendant's commission of a*
16 *felony offense for which the defendant was found not guilty by*
17 *reason of insanity may be commenced within 10 years of the date*
18 *on which the defendant is released from custody if the offense was*
19 *for any offense specified in paragraph (1), except voluntary*
20 *manslaughter, (2), (3), (4), (5), (6), (7), (9), (16), (17), (20), (22),*
21 *(25), (34), or (35) of subdivision (c) of Section 1192.7 of the Penal*
22 *Code.*

23 ~~(2) No~~

24 (3) *Notwithstanding subdivision (a), an action for damages*
25 *against a defendant based upon the defendant's commission of a*
26 *felony offense for which the defendant was declared a ward of the*
27 *court pursuant to Section 602 of the Welfare and Institutions Code*
28 *may be commenced within 10 years of the date on which the*
29 *defendant is released from custody if the offense was for any*
30 *offense specified in paragraph (1), except voluntary manslaughter,*
31 *(2), (3), (4), (5), (6), (7), (9), (16), (17), (20), (22), (25), (34), or*
32 *(35) of subdivision (c) of Section 1192.7 of the Penal Code.*

33 (4) A civil action ~~may~~ *shall not* be commenced pursuant to
34 paragraph (1), (2), or (3) if any of the following ~~applies~~ *apply*:

35 (A) The defendant has received either a certificate of
36 rehabilitation as provided in Chapter 3.5 (commencing with Section
37 4852.01) of Title 6 of Part 3 of the Penal Code or a pardon as
38 provided in Chapter 1 (commencing with Section 4800) or Chapter
39 3 (commencing with Section 4850) of Title 6 of Part 3 of the Penal
40 Code.

1 (B) Following a conviction for murder or attempted murder,
2 the defendant has been paroled based in whole or in part upon
3 evidence presented to the Board of Prison Terms that the defendant
4 committed the crime because he or she was the victim of intimate
5 partner battering.

6 (C) The defendant was convicted of murder or attempted murder
7 in the second degree in a trial at which substantial evidence was
8 presented that the person committed the crime because he or she
9 was a victim of intimate partner battering.

10 (c) If the sentence or judgment is stayed, the time for the
11 commencement of the action shall be tolled until the stay is lifted.
12 For purposes of this section, a judgment is not stayed if the
13 judgment is appealed or the defendant is placed on probation.

14 (d) (1) Subdivision (b) ~~shall apply~~ *applies* to any action
15 commenced before, on, or after the effective date of this section,
16 including any action otherwise barred by a limitation of time in
17 effect ~~prior to~~ *before* the effective date of this section, thereby
18 reviving those causes of action that had lapsed or expired under
19 the law in effect ~~prior to~~ *before* the effective date of this section.

20 (2) Paragraph (1) does not apply to either of the following:

21 (A) Any claim that has been litigated to finality on the merits
22 in any court of competent jurisdiction ~~prior to~~ *before* January 1,
23 2003. For purposes of this section, termination of a ~~prior~~ *an earlier*
24 action on the basis of the statute of limitations ~~does~~ *shall* not
25 constitute a claim that has been litigated to finality on the merits.

26 (B) Any written, compromised settlement agreement that has
27 been entered into between a plaintiff and a defendant if the plaintiff
28 was represented by an attorney who was admitted to practice law
29 in this state at the time of the settlement, and the plaintiff signed
30 the agreement.

31 (e) Any restitution paid by the defendant to the victim shall be
32 credited against any judgment, award, or settlement obtained
33 pursuant to this section. Any judgment, award, or settlement
34 obtained pursuant to an action under this section shall be subject
35 to the provisions of Section ~~13966.01~~ *13963* of the Government
36 Code.